



The Comptroller General
of the United States

Washington, D.C. 20548

Cunningham

Decision

Matter of: Connie Hall Co.--Reconsideration
File: B-223440.3
Date: March 20, 1987

DIGEST

Prior decision is affirmed where request for reconsideration fails to show legal error or information not previously considered.

DECISION

Connie Hall Co. has requested reconsideration of our decision in Connie Hall Co., B-223440.2, Nov. 18, 1986, 86-2 C.P.D. ¶ 576, in which we denied the company's protest against the decision of the Corps of Engineers, Department of the Army, to award a contract to Roebbelen Engineering, Inc. under an IFB for electrical construction work.

We affirm our prior decision.

The IFB established three bidding schedules ("A," "B," and "C") for the work. Schedules "A" and "B" each contained two separate line items of work; in addition, only Schedule "A" contained two "additive" items for additional work that were required to be priced by bidders. Schedule "C" was a combined schedule which showed all four of the basic items plus the two additive items. It was Connie Hall's position that it should have received award under either its low bid for Schedule "A" work only or its low bid for Schedule "C" work plus additive item one.

Clause 30 of the IFB provided that the low bidder for purposes of award was the conforming responsible bidder offering the low aggregate amount for the first or base bid item, plus (in the order of priority listed in the schedule) those additive bid items providing the most features of the work within the funds determined by the government to be

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available before bids are opened. A "bid item skipping" provision was also part of clause 30. This provision stipulated that if addition of any bid item (including additive items) would make the proposed contract exceed available funds for all bidders, the item was to be skipped and the next subsequent item was to be added if award could be made within the funding limit. The IFR also stated that the listed order of priority for items of work was to be followed only for determining the low bidder. After determination of the low bidder, as stated, award in the best interest of the government was to be made to the low base bid and any combination of additive items for the award, provided that award on such combination of bid items would not exceed the amount offered by any other conforming responsible bidder for the same combination of bid items.

After two other bidders were allowed to withdraw their bids because of mistakes, the Army had before it the bids, for comparison purposes, of Connie Hall and Roebbelen, and the listed figure of \$3,500,000 in Military Construction Army (MCA) funds available for Schedule "A" work (and the comparable items found on Schedule "C" including the additive items found there). These bids--exclusive of additive items--were:

	"Schedule A"	"Schedule B"	"Schedule C"	_
Connie Hall	\$3,319,448	\$1,446,906	\$4,655,984	
Roebbelen	\$3,500,000	\$1,372,400	\$4,602,300	

Roebbelen's Schedule "C" of \$4,602,300 bid for all the non-additive, base bid items was \$89,546 less than the combined award price (\$4,691,846) for the same work to Connie Hall on Schedule "A" at \$3,319,448 and Roebbelen on Schedule "B" at \$1,372,400. Thus, Connie Hall's low bid for Schedule "A" work could not be accepted. Consideration of the bids for additive item two after additive item one was skipped under the above skipping provision did not affect the determination of Roebbelen as low bidder. Specifically, Connie Hall's \$26,400 price advantage resulting from a comparison of additive two prices (Connie Hall - \$30,600; Roebbelen - \$57,000) did not overcome Roebbelen's \$53,684 overall price advantage for all the base items of Schedule "C." The addition of additive one prices (Connie Hall - \$537,338; Roebbelen - \$658,000) to the base bid prices of these bids would not have been proper under the above skipping provision as the totals would have exceeded the \$3,500,000 of funds available under Schedule "C." Thus, Connie Hall's low bid for Schedule "C" work and additive item one could not be accepted.

The Army also informed us that after determining Roebbelen to be the low bidder it sought and received additional MCA funds of \$57,000 to support an award to Roebbelen under Schedule "C" including additive item two; however, MCA funds were not sought to support an award under additive item one since the seeking and receipt of MCA funds for an additive one award would have been contrary to clause 30.

On reconsideration, Connie Hall essentially argues that we erroneously interpreted the "bid item skipping" provision. Connie Hall argues that the provision does not apply in determining the low bidder when "funds must be requested [even] to [provide for award of] the base bid."

Once having determined that Roebbelen was the low bidder for the base items, clause 30 clearly provided that award--should additional government funds be obtained before award--could be made in the government's best interest on any combination of base and additive items so long as there was no other lower bidder for the combination selected. Thus, the Corps was thereafter properly entitled to consider award for Schedule "C" and additive two after additive one was skipped because Connie Hall was low under additive one. Under clause 30, "any" combination of items could be selected in this circumstance--provided Roebbelen's status as low bidder was not changed--and, therefore, the Corps had the right to proceed to consideration of additive two bids where Roebbelen was still low. The procession in this circumstance was "within the order stipulated in the bidding documents" as set forth in clause 30 and, therefore, was proper, contrary to Connie Hall's position.

A request for reconsideration must contain a detailed statement of the factual and legal grounds upon which reversal or modification is warranted and specify errors of law made or information not considered previously. See 4 C.F.R. § 21.12(a) (1986). Connie Hall has failed to demonstrate legal error or information not considered previously and, thus, our original decision is affirmed.

Harry R. Van Cleve
Harry R. Van Cleve
General Counsel